

Montana's NRD Program

- 1990, Governor establishes the NRD Program (NRDP)
 - Program represents State and FWP, DEQ, and DNRC
 - Governor's NRD Policy Committee (Gov. Chief of Staff, Directors, and Attorney General) provides NRDP guidance
- NRDP is administratively attached to MDOJ
- NRDP Organization –**litigation component (recovery damages)** and a **restoration component** (to implement restoration using settlement funds)
- The Program has 12 FTEs
- NRDP is funded by settlement funds, not tax funds

NRD Law: CERCLA, CECRA, OPA

Remediation/Cleanup

- Hazardous substances are cleaned up to protective levels
 - Human health
 - Environment
 - Goal is not to restore environment

NRD Restoration

- Often picks up where remediation leaves off
 - Goal: To restore injured natural resources to baseline conditions
 - Damages recovered must be used to restore or replace injured resources



Requirements for Recovery of Money Damages in an NRD Case

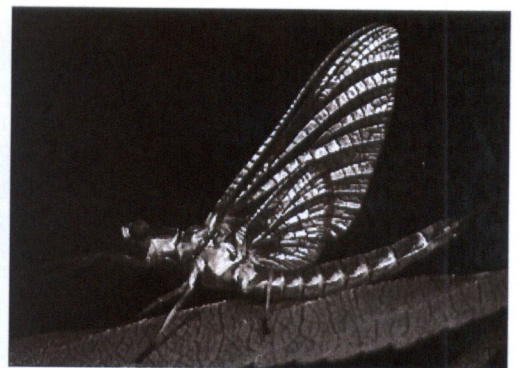
The Injured Natural Resources

- ✓ Had to be owned, controlled, or held in trust by the State of Montana or the Federal Trustee
- ✓ Had to be injured by releases of hazardous substances from a responsible party

Damages for Lost Services:

- ✓ lost physical and biological functions previously performed by a natural resource
- ✓ lost human use of injured resources, including lost recreation opportunities, is also a lost service
- ✓ Lost human non-use values (existence, option, etc.)

Injured Natural Resources



July 1, 2011 Yellowstone River Oil Spill

- \$12 million settlement
 - \$9.5 million State funds
 - \$2.5 million Federal funds
- Injured Resources
 - Terrestrial/riparian habitats
 - Large woody debris
 - Riverine aquatic habitat
 - Pelicans – Federal
 - Human Use (Recreation)